spouses dying with and without issue. If the husband leaves no issue, of this or any former marriage, the wife is entitled to a life estate in *all of the husband's realty,*—quite a radical change in the law of dower. In case the wife dies without issue the husband, as at common law, is entitled to a life estate in the whole, but if she leaves issue his curtesy is reduced to a one-third life estate. So, too, in case of the husband leaving issue, the law of dower remains a one-third life estate.

(3) In order to make the fundamental requirements for dower and curtesy the same it was necessary that one of the elements of curtesy be eliminated. Accordingly it is provided that no issue need be born alive during coverture to entitle the husband to his life estate.

(4) The fact that the husband conveyed the property to the wife does not affect his right to curtesy therein. Prior to this enactment the rule in Virginia was that the husband could claim no curtesy in such of his wife's estate as he himself had conveyed to her without express reservation of his marital rights.[1]

(5) Curtesy is denied the husband in the wife's equitable separate estate where the instrument creating the estate provides otherwise. This is merely declaratory of the existing law.[2]

E. D. H.

PETITION FOR APPEAL, WRIT OF ERROR, OR SUPERSEDEAS.—

1. *Time Limit for Presentment of Petition.* Chapter 41 of the Acts of Assembly, 1922, p. 45, re-enacts § 6337 of Va. Code, 1919, in such manner that the time allowed for the presentation of petitions for writs of error, appeal, or supersedeas is now made uniform in all cases, and no such petition may now be presented in any case more than *six months* after final judgment rendered.

2. *When Appeal, etc., Allowed—When Petition Rejected—When Rejection Final.* Chapter 45 of the Acts of Assembly, 1922, p. 47 re-enacts and amends § 6348 of Va. Code, 1919 and the amendatory act thereto, enacted in 1920 (Act 1920, p. 416). The 1920 amendment repealed § 6349 of the Code and substantially incorporated it in itself. The main purpose and change in this amendment was to allow writs of error to defendants in criminal cases as a matter of right. In the 1922 amendment the language affording such absolute right of appeal in criminal cases is omitted, the words of the 1920 act, "provided that in all criminal cases where petition for a writ of error is presented the same shall be granted as a matter of right," not appearing. It will be noted that this does not affect the constitutional right of the Commonwealth to an appeal in cases of violations of laws relating to the State revenue.[1]

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[1] Jones *v.* Jones, 96 Va. 749, 32 S. E. 463, 4 Va. Law. Reg. 819 (1899); Ratliff *v.* Ratliff, 102 Va. 880, 47 S. E. 1007 (1904).

[2] Chapman *v.* Price, 83 Va. 392, 11 S. E. 879 (1886); Hutchings *v.* Commercial Bank, 91 Va. 68, 20 S. E. 950 (1895).

[1] Va. Const., § 8.

It is provided as in the 1920 amendment and § 6349 of the Code that the court may allow an appeal, or writ of error and in either case grant a supersedeas to stay proceedings in whole or in part, if of the opinion that the decision should be reviewed. The new act in fact adopts verbatim § 6349 of the Code repealed. There is then no absolute right of appeal either in civil or criminal cases, but the duty lies as before the 1920 amendment as much upon the judges to deny, in a proper case, as to allow the petition when doubt exists as to the propriety of the decision.[2]

The provision is retained for the rejection of petitions from interlocutory decrees, and in cases where it appears that the action should be proceeded in further in the court below before appeal is allowed therein.

The privilege of oral argument by counsel for the petitioner granted first by the 1920 amendment is preserved, but it should be noted that this does not restrict the right of the court to set a time limit upon such argument.

The provision of § 6348 of the Code, omitted in the 1920 amendment, concerning the finality of the rejection when the court shall deem the judgment, decree or order complained of plainly right and shall so state thereon, is restored, in which case no other petition therein will be entertained.[3] It is further provided as formerly that the rejection by a judge in vacation does not prevent a presentation of the petition to the court at the next term

A. R. B., Jr.

Covenants—Restrictions in Deeds—When Enforceable by Grantees as Part Owners of Original Tract.—The following are the facts in the case of *Stevenson* v. *Spivey*.[1]

A lot owned by a land company was sold, the deed containing this sentence: "No building to be erected within twenty-five (25) feet of the front line of said lot". By three successive mesne conveyances the lot became the property of the defendant. Neither of the intermediate conveyances contained any building restriction, or any reference to any such restriction in the first deed. A second lot adjoining the first was included in the transaction but without any restriction. The plaintiff purchased a third lot adjoining the second lot of the defendant's, from the land company several years after the defendant's lot was first sold, the deed of which contained the same restriction as was contained in the deed of the first lot of the defendant. The defendant resided on the first lot and proposed to extend his dwelling practically up to the front line of his lot. The plaintiff, who also resided on his lot, brought an injunction to restrain the defendant from violating the building restriction. *Held*: Injunction denied.

It is well settled that courts of equity will enforce restrictive build-

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[2] McCue's Case, 103 Va. 870, 1008, 49 S. E. 623 (1905).

[3] Morgan's Case, 115 Va. 943, 79 S. E. 388 (1913). In this regard see hostile criticism of this phase of the statute by Mr. S. S. P. Patterson, 5 Va. Law Reg. (N. S.), 535.

[1] (Va.), 110 S. E. 367 (1922).